

Fifty ninth meeting of the Ofqual Board

Minutes of the meeting held at 10:30 on Wednesday 23 March 2016 at Ofqual, Spring Place, Coventry

Present: Board Members

Tim Balcon
Mike Cresswell (for items 73 to 79 and 81 to 83/15 only)
Philip Fletcher
Maggie Galliers
Anne Heal
Barnaby Lenon
Amanda Spielman (Chair)
Roger Taylor
Tom Taylor
Neil Watts
Julius Weinberg (Chair (item 76/15 only))

Ofqual

Susan Ali-Shah Interim Associate Director, Finance (for items 77 and 78/15 only)
Jeremy Benson Executive Director for Vocational Qualifications
Rebecca Hadley Associate Director, Human Resources, Learning & Development and Facilities (for item 77/15 only)
Matthew Humphrey Associate Director, Legal Moderation and Enforcement (for items 79 and 80/15 only)
Cath Jadhav Associate Director, Standards and Comparability (for item 81/15 only)
Tim Leslie Director, National Reference Test Project (for item 77/15 only)
Michelle Meadows Executive Director for Strategy, Risk & Research
Natalie Prosser Director of Legal
Jan Roszkowski Chief Information Officer (for item 77/15 only)
Julie Swan Acting Executive Director for General Qualifications
Alison Townsend Board Secretary

Observers

Michael Hanton Associate Director, Strategy and Risk (for items 73 to 76/15 only)

73/15 **Welcome and Apologies for Absence**

Apologies for absence had been received from Marc Baker, Terri Scott and Dana Ross-Wawrzynski.

74/15 **Declarations of Interest**

There were no declarations of interest.

75/15 **Minutes**

The Board agreed the minutes of its meeting held on 20 January 2016 and 26 February 2016 as a true record subject to the correction of some minor typographical errors.

Matters Arising

The Board considered and noted a paper on matters arising from previous meetings:-

115/14, 25 March 2015 – the consultation on resit arrangements for outgoing GCSE, AS and A level specifications had closed on 2 February 2015. The Chief Regulator had taken the final decision on this in line with the delegation from the Board. An announcement on this would be made later that day.

27/15, 29 July 2015 – work was under way to prepare the consultation on the retention of existing specifications made under s96 of the Equality Act 2010. It was hoped to publish this shortly.

63/15, 20 January 2016 – the launch of the primary assessment consultation had been postponed until after test week. Ofqual had commented on the draft consultation and could continue to liaise with STA in advance of this being published.

63/15, 20 January 2016 – a consultation on the options for the award of grades 8 and 9 was due to start soon.

66/15, 20 January 2016 – the Memorandum of Association with Qualifications Wales had been signed and was published on 1 March 2016. Work was continuing on Ofqual's innovation plan which was expected to be published in May 2016. An update on the Business Impact Target consultation was included in item 79/15 on the agenda.

67/15, 20 January 2016 – the Board took decisions by electronic business on subject content and assessment arrangements for GCSEs in Ancient History, Classical Civilisation, Electronics, Film Studies, Media Studies and Statistics and AS/A level Accounting, Ancient History, Archaeology, Classical Civilisation, Electronics, Film studies, law and media studies on 3/2/16 and in GCSE physical education (short course), Sociology and AS/A level Geology, Politics and Statistics on 29 February 2016.

All other matters arising were picked up on the agenda.

76/15 Interim Chief Regulator's Report

The Board considered the Interim Chief Regulator's report and discussed issues arising from it including:-

- the recent meeting with the Secretary of State and areas that this had covered;
- work taking place to prepare for the award of the reformed AS in summer 2016; and
- the strategic risk register. The Board noted that the Audit and Risk Assurance Committee had reviewed the register at its meeting the previous week and received a short update on this consideration.

The Board went on to consider the draft 2016-19 Corporate Plan that had been updated to take into account comments from the Board. The document would be published on Ofqual's website with a small number of hard copies produced for circulation to key stakeholders.

The Board approved the draft 2016-19 Corporate Plan for publication.

77/15 Chief Operating Officer's Report

The Board considered the Chief Operating Officer's report.

Information Management Transformation Project

The Board received an update on the Information Management Transformation Project particularly the background to the decision to delay the move to the new RITS system. The Board heard about problems that had been experienced with the bulk upload of data for 1300 users from awarding organisations and the data feed to the Skills Funding Agency (SFA). The lessons that had been learned were outlined to the Board along with the revised timeline to move to the new system. The Board discussed aspects of the report and verbal update including:-

- the reasons why it had been decided to collect unit level data;
- the latest date when the new system would need to be operational; and
- if any other issues had been identified that might delay the project.

The Board noted that discussions had taken place towards the start of the project to understand stakeholders' views and that unit level data was collected for SFA processes. It had been hoped that it would be possible to deliver this part of the project by the original deadline but it was now clear this would not be possible. The board were advised that the current RITS contract was expensive and the aim was to move to the new system as soon as possible.

The Board asked that a paper on lessons learned from the Information Management Transformation Project be presented to the Board when the project was complete.

Finance

The Board received an overview of the current financial position including the forecast year end outturn. The board received a brief update on key factors affecting the accounts including the move from temporary/contractor to permanent staff during the year. The Board pointed out that there was a mismatch between the underspend stated in the narrative in the paper and in the accompanying table; the position would be reconfirmed and the result is at Annex A to these minutes. The Board received a brief update on the process to recruit to the position of Associate Director Finance.

The Board received a short update on the process to review and update Ofqual's Standing Financial Instructions and made some minor comments on the draft presented.

People

The Board received a short update on people related issues including:-

- an update on the recruitment process;
- the move to an online performance management system;
- the establishment of an employee forum; and
- work in relation to future office accommodation.

National Reference Test

The Board received a short update on work in relation to the National Reference Test including the recent field trials and the progress of the secondary legislation.

The Board:-

- (i) approved expenditure of £72.5k for the RITS replacement contingency plan to fund six weeks development and extend the Lockheed Martin development contract by 6 weeks; and**
- (ii) endorsed the updated Standing Financial Instructions subject to their amendment to reflect the comments made at the meeting.**

78/15 Budget Report 2016-17 to 2019-20

The Board considered a paper that presented the draft budget for 2016-17 and budget expectations for the following three years to 2019-20. The Board were advised that since the paper had been written the Comprehensive Spending Review letter had been received and that control totals were currently being agreed with HM Treasury.

The Board noted that the budget had been drawn up in consultation with each directorate and received a short update on the assumptions around staff and pay in 2016-17 and going forward. The Board heard that the Finance Committee had considered the draft budget and had discussed the potential implications of the pay assumptions.

The Board:-

- (i) approved the budget or 2016-17; and**
- (ii) endorsed the budget plans for 2017-18 to 2019-20**

79/15 **Vocational Qualifications Update**

The Board considered an update on key issues for the VQ Directorate and discussed key issues from the paper.

The paper proposed the board make a standing delegation to the Chief Regulator to consult on and sign-off statutory guidance. The Board noted that this was not a matter currently reserved to the board and that these decisions were not of the strategic nature usually reserved to the board. The Board were advised that the delegation was proposed to provide clarity on decision taking in this area. The Board discussed the nature of the guidance and noted that the delegation did not preclude guidance being brought to the Board if it was considered appropriate. The Board noted that the paper proposed that any new guidance agreed under this delegation would be reported to the Board. The Board agreed the delegation.

The Board went on to consider aspects of the paper including:-

- the impact of the loss of National Occupational Standards and possible developments in this area; and
- the closure of Ofqual's Belfast office.

The Board agreed:-

- (i) that the responsibility for the preparation and publication of statutory guidance should sit with the Chief Regulator and that Annex B to the Ofqual Governance Framework should be amended to reflect this.**

80/15 **Managing Enforcement Issues**

The Board considered a paper that presented options for taking decisions in relation to Ofqual's enforcement powers. The current Enforcement Committee model was outlined to the board that went on to discuss it and the suggested alternative approach particularly:-

- the need to separate the role of prosecutor and judge in the enforcement process and the practical implications of this;
- how the Board could have oversight of both rule-making and enforcement, even where segregation may be desirable at an operational level;
- the composition of enforcement committees in the current and alternative models and involvement of board members in the process; the board discussed potential adjustments to the proposals; and
- the need for the board to be assured that the resources that it is responsible for are being properly managed and to be provided with relevant information on a timely basis and the implications of the current model on this transparency.

The Board asked for the alternative approach to be reviewed, bearing in mind the discussions at the meeting, for further consideration at a future meeting.

The Board noted that until any alternative approach was put in place the existing Enforcement Committee model would remain in place. The Board confirmed that the following powers are delegated to an Enforcement Committee, consisting of no fewer than three individuals, drawn from the Board and/or the senior staff:-

- (a) to impose a monetary penalty including issuing Notice of Intention and entering into consultation as appropriate (ref s151a Apprenticeships, Skills, Children And Learning Act 2009 (ASCLA));
- (b) to withdraw recognition from an awarding organisation including issuing Notice of Intention and entering into consultation as appropriate (ref s152 ASCLA);
- (c) to impose additional Conditions of Recognition (whether Special Conditions (s132(3)(d) ASCLA) or Entry and Inspection Conditions (s135 ASCLA), including entering into consultation as appropriate;
- (d) to impose an accreditation requirement (s138(2)(b) ASCLA) on a specific awarding organisation, including entering into consultation as appropriate;
- (e) to give a direction, including issuing Notice of Intention and entering into consultation as appropriate (s151 ASCLA); and
- (f) to require an awarding organisation to pay Ofqual's costs where a monetary penalty is imposed, recognition withdrawn or a direction given (s152(a) ASCLA).

The Board:-

- (i) agreed that until the new permanent Chief Regulator is in post the delegations to the Interim Chief Executive at paragraph 54 of the Board Governance Framework is amended to delegate the decision**

to convene and appoint an Enforcement Committee to the Deputy Chair, in consultation with the Director of Legal; and

- (ii) asked for the alternative approach to be reviewed, bearing in mind the discussions at the meeting, for further consideration at a future meeting.**

81/15 General Qualifications Update

The Board considered and noted paper on the activities of the GQ Directorate.

The Board received an update on the accreditation of new GCSE, AS and A level specifications for first teaching in September 2016 and noted that one accredited specification was now in place for all subjects. The Board debated the possibility that it might need to take a decision to postpone the introduction of a specification and, if this was needed, the timing of the decision. The Board asked for a teleconference to be arranged that could be cancelled if it was eventually not needed. The Board enquired about the reasons why specifications were frequently rejected; the processes were briefly outlined to the board including how standardisation across panels was achieved.

The Board noted that there had been a number of incidents where schools had been affected by flooding. Discussions had been held with exam boards to ensure consistency of approach in any special consideration awarded.

The Board went on to consider a risk register that considered risks around summer 2016 and 2017 awarding. The Board discussed aspects of the register including:-

- how the planned public report on actions taken in relation to modern foreign language might impact summer 2016 awarding;
- information around summer exams that was routinely made public;
- further actions that could be taken to guide tiering choices in GCSE mathematics in 2017;
- how Ofqual might reassure schools that standards in iGCSEs and reformed GCSEs were aligned.

82/15 Review of Marking and Appeals – update on proposals for reform

The Board considered a paper that recommended a process to take decisions on changes to arrangements for reviews on marking and appeals.

The paper included a summary of responses to the consultation on marking reviews and appeals that had closed on 11 March 2016. The Board were advised that Ofqual had met with Exam Boards to understand what changes could be made for summer 2016. The Board noted that work was under way to determine Ofqual's recommendations on this matter. So that timely decisions could be made, it was proposed that a time limited board Committee be established. The Committee would consider the consultation responses

and the options available, and, make recommendations to the Chief Regulator for final decision.

The Board discussed aspects of the paper including the changes that could be delivered in summer 2016 and how any piloting might work.

The Board agreed:-

- (i) to establish a Committee to review the responses to the consultation on marking reviews and appeals and the options available in detail and make recommendations to the Chief Regulator for decision;**
- (ii) appointed Mike Cresswell, Roger Taylor and Neil Watts to the Committee; the Chair nominated Roger Taylor as Chair; and**
- (iii) delegated final policy decisions on this matter to the Chief Regulator.**

83/15 General qualifications stakeholder relations update

The Board received a short presentation on current General Qualifications stakeholder issues. The Board briefly discussed aspects of the presentation and noted that stakeholders had recognised the benefits from their engagement with Ofqual on policy development. The Board received a short update on the annual perceptions survey and discussed the timing of this publication.

84/15 Report on the work of Board Committees

The Board considered and noted an update paper on the work of those Committees that had met since its last meeting:-

Standards Advisory Group

The Board heard that a number of strong papers had been presented to the group for discussion including on the award of grades 8 and 9 and Research into patterns of variability in the outcomes of GCSE results.

Vocational Advisory Group

The Board received a brief overview of the last Vocational Advisory Group meeting that had included discussion on potential research questions on vocational assessment, key challenges around the promotion of public confidence in vocational qualifications, and Ofqual's vocational qualifications strategy. The Board noted that the group had been joined by a number of recently appointed independent members that had strengthened the group.

Finance Committee

The Board received a short update on the recent Finance Committee meeting. The Chair of the Committee commented on the quality of papers presented to

the group and how this had supported a comprehensive and robust discussion.

Audit and Risk Assurance Committee

The Committee received a short update on the recent meeting of the Audit and Risk Assurance Committee and noted that much of its work had concerned year end matters.

85/15 **Review of board committees**

The Board considered a paper that presented the outcome of a recent review of Ofqual's board committee structure.

The Board agreed to:-

- (i) reappoint the independent members of the Standards Advisory Group identified at Annex A to the paper for a the twelve month period to 31 March 2016;**
- (ii) reappoint the independent members of the Vocational Advisory Group identified at Annex B to the paper for a the twelve month period to 31 March 2016;**
- (iii) reappoint Maggie Galliers to the Audit and Risk Assurance Committee, Vocational Advisory Group and the Reform Committee until her appointment to the Board expires on 31 March 2017; and**
- (iv) appoint Mike Cresswell, Jo-Anne Baird and Peter Kent to the Standards Advisory Group National Reference Test Sub Group; delegate the approval of the terms of reference for the sub group to the subgroup Chair in consultation with the Chair; and, agree that the independent members of the subgroup are entitled to claim an attendance allowance and reasonable expenses at the same rate as is paid to the independent members of the Standards Advisory Group.**

86/15 **Publication of Papers**

The Board agreed that, subject to some minor redactions, all open papers for this meeting would be published.

87/15 **Other Business**

The Chair made reference to Philip Fletcher's retirement from the Ofqual Board at the end of March 2016. The Chair thanked Philip for six years of service on the Ofqual Board and noted that he had also served on the Ofqual Committee prior to Ofqual vesting and thanked him for the wealth of experience and wise guidance he brought to the Board.

88/15 **Date of Next Meeting**

The next Board meeting would be on Wednesday 18 May 2016.

Att Annex A updated financial position

Ofqual Board

Paper 3(i)/16

Date:
18 May 2016

Title:
Matters arising from past Board meetings

Report by:
Alison Townsend, Board Secretariat Manager

Responsible Director:
Jeremy Benson, Executive Director for Vocational Qualifications

Paper for information

open paper



Issue

1. To update the Board on progress with actions/matters arising from past Board meetings.

Recommendation

2. The Board is recommended to note the position on past actions.

Background

3. The table below sets out actions agreed at past meetings of the Ofqual Board and progress/plans to achieve these:-

Date/Minute	Action	Update
27/15 29 July 2015	<u>Reasonable adjustments and Ofqual’s specifications under Section 96 of the Equality Act 2010</u> Ofqual should consult in September 2015 on the retention of existing	The consultation is currently awaiting final sign off. When this is in place it will be published.

Date/Minute	Action	Update
	specifications made under section 96 of the Equality Act 2010.	
63/15 20 Jan 2016	<u>Chief Executive's Report – Award of Grades 8 and 9</u> Ofqual should consult informally with DfE on the three options for the award of grades 8 and 9 and then move to formal consultation.	A consultation on the options for the award of grades 8 and 9 had started on 22 April 2016 and would run through to 17 June 2016.
77/15 23 March 2016	<u>Chief Operating Officer's Report – Information Management Transformation Project</u> The board asked for a paper on lessons learned from the Information Management Transformation Project when the project was complete.	Paper to be drafted when project is complete.
77/15 23 Marchg 2016	<u>Chief Operating Officer's Report – Finance</u> The Board endorsed the updated Standing Financial Instructions subject to their amendment to reflect the comments made at the meeting.	The document was updated and published on 28 April 2016.
79/15 23 March 2016	<u>Vocational Qualifications Update</u> The Board confirmed that responsibility for the publication of statutory guidance should sit with the Chief Regulator and that Annex B of the Ofqual Governance Framework should be amended to reflect this.	The Governance Framework has been adjusted.
80/15 23 March 2016	<u>Managing Enforcement Issues</u> Further work to be done to develop the alternative approach to enforcement.	This matter scheduled for the 27 July 2016 board meeting.

Date/Minute	Action	Update
82/15 23 March 2016	<u>Review of Marking and Appeals</u> Board committee established to review the responses to the consultation on marking and appeals and the options available and make recommendations to the Chief Regulator for decision.	The sub group met on 8 April 2016 and recommendations were made to the Chief Regulator. An update on this matter is included at item 9/16 on the agenda for the meeting today.

Paper to be published	YES – after the meeting
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ANNEXES: NONE